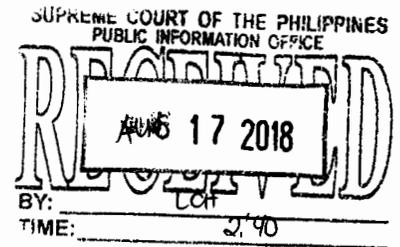




Republic of the Philippines  
 Supreme Court  
 Manila



FIRST DIVISION

**GENOVEVA P. TAN, deceased,**  
 substituted by Melchor P. Tan as the  
 legal representative of the deceased  
 petitioner,

*Petitioner,*

- versus -

**REPUBLIC OF THE PHILIPPINES,**  
 represented by the BUREAU OF  
 CUSTOMS,

*Respondent.*

**G.R. No. 216756**

Present:

LEONARDO-DE CASTRO,  
*Acting Chairperson,\**  
 DEL CASTILLO,  
 JARDELEZA,  
 TIJAM, *and*  
 GESMUNDO,\*\* JJ.

Promulgated:

**AUG 08 2018**

X -----

**DECISION**

**DEL CASTILLO, J.:**

Assailed in this Petition for Review<sup>1</sup> on *Certiorari* are the July 29, 2013 Decision<sup>2</sup> and February 5, 2015 Resolution<sup>3</sup> of the Court of Appeals (CA) which granted the Petition for *Certiorari* in CA-G.R. SP No. 118442 and denied herein petitioner's Motion for Reconsideration, respectively.

In 2002, the herein respondent, through the Bureau of Customs, filed an Amended Complaint<sup>4</sup> for collection of sum of money with damages and prayer for injunctive writ against Mannequin International Corporation (Mannequin) before

\* Per Special Order No. 2559 dated May 11, 2018.

\*\* Per Special Order No. 2560 dated May 11, 2018.

<sup>1</sup> *Rollo*, pp. 12-36.

<sup>2</sup> Id. at 45-53; penned by Associate Justice Rodil V. Zalameda and concurred in by Presiding Justice Andres B. Reyes, Jr. (now a Member of this Court) and Associate Justice Ramon M. Bato, Jr.

<sup>3</sup> Id. at 55-62.

<sup>4</sup> Id. at 190-196.

the Regional Trial Court (RTC) of Manila, on the cause of action that Mannequin paid its 1995-1997 duties and taxes using spurious Tax Credit Certificates (TCCs) amounting to ₱55,664,027.00. The case was docketed as Civil Case No. 02-102639 and assigned to Branch 8 of the Manila RTC. The original complaint was amended to include other individuals – among them herein petitioner Genoveva P. Tan (Genoveva) – as one of the defendants.

After the respondent rested its case, petitioner filed a demurrer to evidence followed by an urgent manifestation with leave of court to allow her to change the caption of her demurrer to that of a motion to exclude and drop her from the case and/or dismiss the same as against her.

The Manila RTC granted petitioner's urgent manifestation and treated her demurrer as a motion to exclude/drop her from the case.

Subsequently, in a July 1, 2010 Order, the trial court resolved to grant petitioner's motion to exclude, thus:

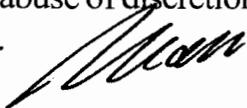
WHEREFORE, Motion to Exclude is GRANTED. Defendant Genoveva Tan is hereby EXCLUDED/ DROPPED as one of the defendants in this case. The Writ of Preliminary Injunction issued by this Court on September 11, 2002 is hereby LIFTED/CANCELLED ONLY WITH RESPECT TO the properties of Genoveva Tan.

SO ORDERED.<sup>5</sup>

Respondent moved to reconsider, but was rebuffed.

### ***Ruling of the Court of Appeals***

Respondent thus filed an original Petition for *Certiorari* with the CA, docketed as CA-G.R. SP No. 118442, on the contention that the Manila RTC committed grave abuse of discretion in granting petitioner's motion to exclude/drop her from the case.



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<sup>5</sup> Id. at 150.

In a March 30, 2011 Resolution,<sup>6</sup> the CA dismissed the petition for being tardy and for failing to attach thereto relevant documents and pleadings. But, on motion for reconsideration, the petition was reinstated. Petitioner took no action to question the reinstatement.

On July 29, 2013, the CA issued the assailed Decision granting respondent's Petition for *Certiorari*, ruling as follows:

As gleaned from the records, petitioner<sup>7</sup> accuses the public respondent judge of gravely abusing his discretion by allowing private respondent Genoveva to present evidence in support of her Demurrer to Evidence and to formally offer her exhibits, contrary to the provision of Section 1, Rule 33 of the Rules of Court. Petitioner also argues that the move of x x x Genoveva to amend the caption of her Demurrer to Evidence into a Motion to Exclude was merely a legal maneuver to avoid the consequence of a possible denial of her demurrer.

On another issue, petitioner posits that assuming, for the sake of argument, that what x x x Genoveva filed was a Motion to Exclude and not a Demurrer to Evidence, it was still gravely erroneous x x x for the public respondent to grant the Motion to Exclude since the same should have been filed before the filing of an Answer and not at that late stage of the proceedings. Furthermore, petitioner posits that the grant of the Motion to Exclude is devoid of factual and legal basis.

Insofar as the public respondent's decision to treat x x x Genoveva's Motion as a Motion to Exclude, We are of the considered view that no grave abuse of discretion may be imputed against the public respondent. It is already settled that it is not the caption but the allegations that are controlling. Furthermore, it is evident from the records that x x x Genoveva was able to amend her motion before the public respondent could have resolved the same.

We also dismiss petitioner's contention that the Motion to Exclude was no longer appropriate at the late stage of the proceedings since it is categorically provided under Section 11, Rule 3 of the 1997 Rules of Civil Procedure, that a misjoined party may be dropped by the court at any stage of the proceedings and such act does not even require a motion from any party since it may be done by the court on its motion x x x

x x x x

All these notwithstanding, We hold that the public respondent gravely abused his discretion in granting x x x Genoveva's Motion to Exclude.

As may be seen from the records, petitioner, in its effort to prove x x x Genoveva's liability, even employed as its own witness, Lourdes Briones Bhandari, a co-defendant of x x x Genoveva, who then testified in court that x x x Genoveva was supposedly the principal orchestrator of the fraudulent activities that gave rise to this suit. Despite this, however, the court a quo granted x x x

<sup>6</sup> Id. at 38-43; penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.

<sup>7</sup> Herein respondent.



Genoveva's Motion to Exclude mainly, if not solely, on the basis of the latter's argument that she was no longer part of private respondent Mannequin at the time the supposed fraudulent transactions occurred, as supposedly established by the pieces of evidence submitted by x x x Genoveva. Since these pieces of evidence are in the custody of the Securities and Exchange Commission, the public respondent accorded them full faith and credence in line with the principle of regularity of public documents.

There should be no dispute that a public document enjoys the presumption of regularity. It is a *prima facie* evidence of the truth of the facts stated therein and a conclusive presumption of its existence and due execution. It must be stressed, however, that this is not an absolute and inflexible rule since the presumption in favor of public documents is merely disputable and is satisfactory only if uncontradicted, and may be overcome by other evidence to the contrary.

In this case, the Director's Certificate attached to the Amended Articles of Incorporation of x x x Mannequin shows that x x x Genoveva signed the same in her capacity as member of the board of directors of said corporation. Said Director's Certificate indicates that it was executed by x x x Genoveva, along with the other members of the board, on 01 April 1992 x x x

x x x x

This document alone already casts serious doubt as to the truth of x x x Genoveva's claim that she was no longer part of the corporation as early as September 1991.

In addition to the foregoing, a perusal of the Assignment of Shares reveals that x x x Genoveva purportedly assigned her shares to a certain Edgardo C. Olandez. Interestingly, there was nothing in said document to determine as to when exactly said shares were assigned, except that it was purportedly notarized on 24 September 1991. Notably, though, the board of directors of private respondents had already convened as early as 16 September 1991 for the purpose of approving and authorizing the transfer of x x x Genoveva's shares to x x x Olandez. Obviously, it is a highly questionable circumstance that the board of directors would already approve an act that has not yet even been performed.

It also comes as highly questionable that a change in the composition of the board of directors which unfolded as far back as 1991 would not have been immediately reported by x x x Mannequin to the Securities and Exchange Commission. As the records show, it was only in February 1995 that x x x Mannequin reported the transfers of shares made by its directors. It all becomes more dubious when such report coincided with the release of the first two (2) Tax Credit Certificates in favor of x x x Mannequin amounting to x x x (Php7,120,032.00).

All the foregoing factual findings convince Us that petitioner was able to successfully overcome the presumption of regularity accorded to the documents submitted by x x x Genoveva. To be sure, with all the nagging questions that are left unanswered, it becomes difficult to give credence to x x x Genoveva's claim that she was already divested of her shares from x x x Mannequin when the pieces of evidence she relies on to prove the truth of her allegation contradict her claim.



Of course, this is not to say that petitioner's victory is a cinch. It only means that although the pieces of evidence submitted by x x x Genoveva are public documents, the presumption in their favor had been severely diminished, if not totally shattered.

Petitioner has shown basis to implead x x x Genoveva and it now behooves x x x Genoveva to satisfactorily explain and reconcile the discrepancies that were uncovered in court by the prosecution to prove that she was, indeed, no longer part of x x x Mannequin, in whatever capacity, from 1995 and beyond. Accordingly, it was gravely erroneous to have her excluded in the proceedings below.

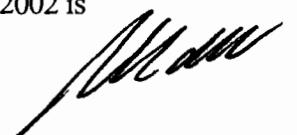
So much has been essayed about the trial court's plenary control over the proceedings before it. It should not be forgotten, however, that the discretion conferred upon the courts is not a willful, arbitrary, capricious and uncontrolled discretion. It is a sound, judicial discretion which should always be exercised with due regard to the rights of the parties and the demands of equity and justice.

In the instant case, the recovery of a huge amount of money that was fraudulently taken from the coffers of the government is at stake. However, it is already established that x x x Mannequin had long ceased its operation and is no longer in existence. Petitioner has also been adamant in stressing that all the other defendants are already outside the country, seemingly without intention to return. What is more, these other defendants, who are x x x Genoveva's descendants, even went as far as waiving, during the pendency of the case, their respective rights in all their properties in the Philippines in favor of x x x Genoveva. Given all these facts, it is starkly clear that petitioner is only left with x x x Genoveva for the full satisfaction of its claim.

It goes without saying then that x x x Genoveva's exclusion would virtually render the entire proceedings a futile recourse as far as the petitioner is concerned. **Verily, even if petitioner Republic of the Philippines wins this case, the government will end up with a pyrrhic victory as it cannot recover even a single centavo from the other defendants. On the other hand, it would be the height of injustice, and surely unacceptable, that those who were responsible for this grand fraud and benefited therefrom would laugh their way to the bank and enjoy their loot with impunity.** It was, thus, essential for the public respondent to exercise extreme caution in dealing with x x x Genoveva's Motion to Exclude. In the end, though, the public respondent chose to mechanically and blindly adhere to the presumption of regularity of public documents without due regard and consideration to the palpable inconsistencies that those public documents, themselves, reveal. There was obviously a failure to exercise sound, judicial discretion on the part of the public respondent in this respect.

**WHEREFORE**, premises considered, the instant Petition for *Certiorari* is **GRANTED** and the assailed Orders dated 29 October 2010 and 01 July 2010 both issued by public respondent are **ANNULLED AND SET ASIDE**.

Accordingly, the Motion to Exclude Genoveva P. Tan as One Among the Defendants filed by private respondent Genoveva P. Tan is **DENIED** and the Writ of Preliminary Attachment issued by the court a quo dated 11 September 2002 is **REINSTATED** with respect to the properties of said private respondent.



The public respondent Judge is directed to proceed with, and dispose of, the case with utmost dispatch.

**SO ORDERED.**<sup>8</sup> (Emphasis in the original)

Petitioner filed a Motion for Reconsideration, but the CA denied the same as well, ruling as follows:

On 29 July 2013, the Court issued a Decision granting the Petition filed by the petitioner Republic of the Philippines by annulling and setting aside the assailed Orders dated 29 October 2010 and 01 July 2010 issued by the court *a quo*.

Thereafter, x x x Genoveva x x x, through Atty. Rizalino T. Simbillo, filed a Very Urgent and Vital Motion and Manifestation with Prayer to Defer Proceedings with Leave of Court, praying that x x x Genoveva be allowed to be represented by the aforesaid counsel in filing a Motion for Reconsideration and for this Court to toll the running of period to file said Motion in the meantime. As an alternative prayer, x x x Genoveva prays for this Court to rule for the outright dismissal of this case, even without a motion for reconsideration x x x.

In the ensuing events, Atty. Simbillo filed a Formal Entry of Appearance on 05 September 2013 while x x x Genoveva, through said counsel, filed a Motion for Reconsideration, seeking reconsideration of Our Decision. Meanwhile, Atty. Carmelita Reyes-Eleazar, the counsel for x x x Genoveva as appearing on the records before Us, submitted her Motion to Withdraw dated August 27, 2013.

As per said Motion for Reconsideration, Atty. Simbillo claims to be the exclusive counsel of record of x x x Genoveva in the proceedings below but he was supposedly left in the dark as to the existence of the Petition before Us. Allegedly, he was neither notified of the Petition nor was he sent any notice or pleading relative thereto. He was only allegedly made aware of the proceedings before Us on 24 August 2013, when the househelper of x x x Genoveva delivered to his office a copy of Our Decision; thereupon, he went to the Division Clerk of Court on 28 August 2013 to obtain an official copy, but to no avail.

Based on the preceding allegations, x x x Genoveva, through Atty. Simbillo, now asserts that the prescriptive period for her to file a Motion for Reconsideration should only be reckoned from 28 August 2013 as it was the time that her alleged exclusive counsel was actually notified of the Court's ruling. x x x Genoveva likewise claimed that it would be the height of injustice and a violation of her right to due process if her Motion for Reconsideration filed by Atty. Simbillo were not given due course, especially considering that she has a meritorious defense.

Subsequently, this Court issued a Resolution dated 25 September 2013 directing Atty. Reyes-Eleazar to comment and submit within ten (10) days from notice any document showing that she was authorized to represent x x x Genoveva.



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<sup>8</sup> Rollo, pp. 47-53.

We also issued a Resolution requiring Atty. Reyes-Eleazar to submit the conformity of x x x Genoveva on her withdrawal of appearance. Atty. Reyes-Eleazar, in compliance with said Resolutions, filed her Compliance, along with a Withdrawal of Appearance with the conforme of x x x Genoveva, both of which were duly noted by this Court in its Resolution date[d] 06 June 2014.

Now, insofar as the pending Motions filed by x x x Genoveva, through Atty. Simbillo, this Court finds them without merit and thus resolve[s] to deny the same.

From the [start] until the rendition of the assailed Decision by this Court, Atty. Reyes-Eleazar actively and vigorously represented x x x Genoveva. It is significant to point out also that x x x Genoveva, all throughout, never bothered to deny such ostensible authority of Atty. Reyes-Eleazar, leading this Court to rely on Atty. Reyes-Eleazar's authority to represent said litigant. As a matter of fact, x x x Genoveva even impliedly admitted Atty. Reyes-Eleazar's right to represent her in this case when she gave her conforme to the withdrawal of appearance submitted by said counsel to this Court. Needless to say, x x x Genoveva would not have signed that withdrawal if she did not recognize and admit Atty. Reyes-Eleazar's authority.

It bears to underscore in this vein that '[t]he presumption in favor of the counsel's authority to appear in behalf of a client is a strong one. A lawyer is not even required to present a written authorization from the client. In fact, the absence of a formal notice of entry of appearance will not invalidate the acts performed by the counsel in his client's name.'

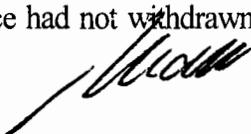
For all intents and purposes, therefore, this Court properly cannot be faulted for recognizing Atty. Reyes-Eleazar as the acting counsel of x x x Genoveva insofar as this Petition is concerned. Corollarily, since x x x Genoveva had proper representation in this case she cannot now claim to have been denied due process of law.

Notably, Atty. Simbillo tries so hard to impress upon this Court of his exclusive authority to protect the interest of x x x Genoveva in this case - he being supposedly the counsel of record in the proceedings below. This claim, however, is completely belied by the facts on record.

First, as we have already emphasized above, x x x Genoveva herself had impliedly admitted the authority of Atty. Reyes-Eleazar to act as her counsel in this Petition. Second, - and this is worthy of emphasis - there is unrefuted information from Atty. Reyes-Eleazar that Atty. Simbillo is, in fact, a collaborating counsel and not an exclusive one, as claimed by him. As Atty. Reyes-Eleazar narrated in her Manifestation -

'x x x x

The above-entitled case which originally emanated from the Regional Trial Court of Manila, Branch 8, x x x. Except for defendant Lourdes Bhandari, the defendant corporation and the individual defendants Tan were all initially represented by the law offices of Defensor Villamor Villamor Bahia and Tolentino x x x. Said law office had not withdrawn its appearance even up to the present time.



Subsequently, the undersigned counsel entered her appearance as collaborating counsel for the individual defendants, Tan. In 2010, however, after the plaintiff had terminated the presentation of its evidence, a certain Atty. Rizalino T. Simbillo filed a Demurrer to Evidence in behalf of Genoveva Tan. For the record, the undersigned counsel had not seen nor met with Atty. Simbillo since he entered is [sic] appearance in 2010. Meantime, since Mrs. Genoveva Tan was always out of the country, the undersigned's communication with her regressed from seldom to almost once or twice for the last three years. All the undersigned's verbal communications were transmitted through the househelp with little chances of reliability. x x x.

x x x'

Considering that Atty. Simbillo was merely a collaborating counsel, there was absolutely no need for the Court to likewise inform Atty. Simbillo of the developments of this case as notices sent to Atty. Reyes-Eleazar indubitably sufficed to meet the due process requirement. Indeed, the rule is that when a party is represented by two (2) or more lawyers, notice to one (1) suffices as a notice to the party represented by him.

Atty. Simbillo may argue that he ought to be considered as the counsel of record as he was the latest hire of x x x Genoveva and that his name appeared in most of the notices, orders or rulings issued by the court below. However, since x x x Genoveva had not yet terminated the services of Atty. Reyes-Eleazar at that time, the latter could very well act in representation of x x x Genoveva until her authority is properly withdrawn which, in this case, transpired only after We have rendered the assailed Decision. To be sure, in the absence of compliance with the essential requirements for valid substitution of counsel of record, this Court can safely presume that Atty. Reyes-Eleazar continuously and actively represents [her] client. Furthermore, '[a] party may have two or more lawyers working in collaboration in a given litigation, but the fact that a second attorney enters his appearance for the same party does not necessarily raise the presumption that the authority of the first attorney has been withdrawn. The second counsel should only be treated as a collaborating counsel despite his appearance as 'the new counsel of record.'

Given the fact that x x x Genoveva was properly represented by Atty. Reyes-Eleazar in this Petition, it is certainly clear that the Very Urgent and Vital Motion and Manifestation with Prayer to Defer Proceedings with Leave of Court filed by Atty. Simbillo has no leg to stand on and thus must be denied. Accordingly, the Motion for Reconsideration subsequently filed by Atty. Simbillo ought to be denied outright for being filed out of time. For what it is worth, though, even if We give due consideration to the Motion for Reconsideration filed by x x x Genoveva through Atty. Simbillo, the said Motion merits denial just the same for lack of merit.

As gleaned from the records, x x x Genoveva, through Atty. Simbillo, incessantly argues that this Court should have sustained its dismissal of the Petition for being filed way beyond the prescriptive period provided under the Rules of Court. Furthermore, x x x Genoveva contends that an appeal and not a Petition for



Certiorari was the proper remedy to seek for the reversal of the ruling of the court *a quo* on the reason that evidentiary matters or matters of fact are not proper grounds in x x x certiorari proceedings; since petitioner failed to file an appeal, the questioned ruling, according to x x x Genoveva, had become final and executory, as a matter of law.

Given the prevailing facts, however, it suffices to say that x x x Genoveva should already be considered estopped from questioning Our decision to give due course to the Petition. To state once more, x x x Genoveva was ably represented by Atty. Reyes-Eleazar during the course of the proceedings before Us. That being so, it can be fairly presumed that x x x Genoveva understood the legal implication of the reversal of Our previous ruling. If she really thought that Our ruling was erroneous, she should have seasonably made the necessary move to contest the same, [e]specially that nothing prevented her from doing so. She kept quiet for so long, however, and did not do anything about the matter. It is only now that she suddenly howls in protest just because Our Decision on the merits of the Petition turned out to be adverse to her.

As x x x Genoveva actively participated in the proceedings before Us, she cannot, on a whim, repudiate Our jurisdiction over the Petition. Be it emphasized that '[i]f a party invokes the jurisdiction of a court, he cannot thereafter challenge the court's jurisdiction in the same case. To rule otherwise would amount to speculating on the fortune of litigation, which is against the policy of the Court.'

It is thus too late in the day for x x x Genoveva to assail Our ruling to reinstate the Petition for Certiorari as she was considered to have accepted the same. This is true even if she claims that her other lawyer, Atty. Simbillo, was not given the opportunity to defend her in this Petition. Frankly, this is an overused pretext that will not be countenanced by this Court. Besides, it is not the fault of this Court that there was no coordination and cooperation between private respondent's lawyers.

Finally, this Court finds no compelling reason to depart from, modify, much less reverse, Our Decision dated 29 July 2013, the same being based on the facts and prevailing jurisprudence on the matter.

**WHEREFORE**, premises considered, the Very Urgent and Vital Motion and Manifestation with Prayer to Defer Proceedings with Leave of Court and the subsequent Motion for Reconsideration filed by private respondent Genoveva P. Tan, through Atty. Rizalino T. Simbillo, are both **DENIED** and the Decision dated 29 July 2013 stands.

The Motion to Withdraw of Atty. Carmelita Reyes-Eleazar is **GRANTED** and she is hereby discharged of her duties as counsel for private respondent Genoveva Tan.

**SO ORDERED.**<sup>9</sup> (Emphasis in the original)

The instant Petition was thus instituted.



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<sup>9</sup> Id. at 55-62.

On December 31, 2016, Genoveva passed away at the age of 82.<sup>10</sup> Her heirs are thus properly substituted in these proceedings.<sup>11</sup>

### Issues

In an August 1, 2016 Resolution,<sup>12</sup> this Court resolved to give due course to the Petition, which contains the following assignment of errors:

#### I.

THE COURT OF APPEALS CANNOT MODIFY IF NOT OUTRIGHT[LY] REVERSE A.M. NO. 07-7-12 SC AS IT (CA) CANNOT ARROGATE TO ITSELF A POWER IT DID NOT POSSESS, A POWER ONLY THE SUPREME COURT MAY EXERCISE.

#### II.

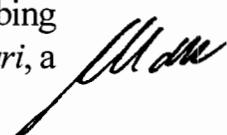
A JUDGMENT BECOMES FINAL AND EXECUTORY BY OPERATION OF LAW. AS A CONSEQUENCE[,] NO COURT[,] NOT EVEN THE SUPREME COURT[,] CAN EXERCISE APPELLATE JURISDICTION TO REVIEW OR MODIFY THE DECISION THAT HAS BECOME FINAL.

#### III.

THAT AN INVALID OR VOID JUDGMENT NEVER ACQUIRES FINALITY.<sup>13</sup>

### *Petitioner's Arguments*

In praying that the assailed CA dispositions be set aside and that, instead, the Court reinstate the CA's original March 30, 2011 Resolution<sup>14</sup> dismissing respondent's Petition for *Certiorari* filed before it, petitioner argues in her Petition and Reply<sup>15</sup> that, as was originally held, respondent's Petition for *Certiorari* before the CA was filed out of time; that rules of procedure prescribing the time for performing specific acts or for taking certain proceedings are indispensable and mandatory, and thus must be faithfully complied with and not discarded; that, pursuant to A.M. No. 07-7-12-SC which amended Section 4 of Rule 65 prescribing the reglementary period within which to file an original petition for *certiorari*, a



<sup>10</sup> Id. at 277.

<sup>11</sup> Id. at 278-279.

<sup>12</sup> Id. at 204-205.

<sup>13</sup> Id. at 20.

<sup>14</sup> Id. at 38-43; penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Amelita G. Tolentino and Normandie B. Pizarro.

<sup>15</sup> Id. at 165-188; captioned as Rejoinder/Opposition.

petitioner is given an inextendible period of 60 days within which to file such petition; that since respondent's petition was filed 59 days after the lapse of the mandatory 60-day period allotted to it, the said petition should have been dismissed outright - and as a result, the trial court's July 1, 2010 Order became final and executory; that a final and executory judgment or order may not be corrected by the special civil action of *certiorari*; and finally, that the assailed CA dispositions are thus null and void and issued beyond its jurisdiction and authority, because they are erroneous and refer to the trial court's disposition that was already final and executory.

Petitioner adds in her Reply that the facts of the case, the law, and jurisprudence do not support respondent's claim that she must be held personally liable for Mannequin's corporate liability, in the absence of proof of bad faith or wrongdoing on her part.

### ***Respondent's Arguments***

Respondent, on the other hand, counters in its Comment<sup>16</sup> that the Petition should be dismissed as the assailed CA dispositions have become final and executory since the motion for reconsideration filed by Atty. Simbillo as collaborating counsel - without the knowledge and approval of Genoveva's counsel of record, Atty. Reyes-Eleazar - was unauthorized and filed out of time; that the CA's reinstatement of its Petition for *Certiorari* was correct as the merits of its case in Civil Case No. 02-102639 outweigh the procedural lapses it committed in filing the CA petition; that dismissal of petitions or appeals on technical grounds is frowned upon by the Court, because the policy is to encourage full adjudication of cases on their merits and not to apply procedural rules in a very rigid, technical sense since they were adopted to help secure - not override - substantial justice and not defeat their very aims; and that even so, since the CA's reinstatement of its Petition for *Certiorari* was never timely contested by petitioner, the latter is thus estopped from questioning the same.

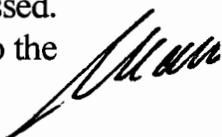
### **Our Ruling**

The Court denies the Petition.

With Genoveva's death, Civil Case No. 02-102639 need not be dismissed. The action against her survives as it is one to recover damages for an injury to the

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<sup>16</sup> Id. at 149-160.



State. Rule 87, Section 1 of the Rules of Court<sup>17</sup> enumerates actions that survive against a decedent's executors or administrators, and they are: (1) actions to recover real and personal property from the estate; (2) actions to enforce a lien thereon; and (3) actions to recover damages for an injury to person or property.

In effect, the only issue raised by petitioner relates to the CA's reinstatement of respondent's Petition for *Certiorari* which it initially dismissed - with petitioner arguing that the reinstatement was erroneous, and in her reply, attempts to impress upon this Court that her case was meritorious - such that she may not be held personally liable for Mannequin's corporate liability, absent proof of bad faith or wrongdoing on her part.

Notably, petitioner did not at all squarely address the CA's assailed pronouncements - particularly its ruling that the trial court was guilty of grave abuse of discretion in excluding/dropping Genoveva from the case, the tardiness of her motion for reconsideration of its July 29, 2013 Decision, and the propriety of Atty. Simbillo's representation - which should be the very subjects of the instant petition. This being the case, the Court cannot rule on these issues, because it is a general rule of procedure that courts can take cognizance only of the issues pleaded by the parties.<sup>18</sup>

The facts reveal that when the CA overturned its own March 30, 2011 Resolution dismissing respondent's Petition for *Certiorari* for being tardy and lacking in the requisite attachments and thus reinstated the same, petitioner took no action to question the reinstatement. She did not move to reconsider; nor did she come to this Court for succor. Instead, she allowed the proceedings before the CA to continue, and is only now - at this stage - raising the propriety of the reinstatement, after participating in the whole process before the CA. This cannot be countenanced. As correctly ruled by the CA, petitioner may not, after participating in the proceedings before it, later question its disposition when it turns out to be unfavorable to her cause.

x x x. The active participation of the party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that



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<sup>17</sup> Rule 87 ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS

Section 1. Actions which may and which may not be brought against executor or administrator. - No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but actions to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him.

<sup>18</sup> See *Logronio v. Taleseo*, 370 Phil. 907, 910 (1999).

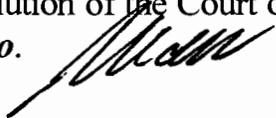
jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.<sup>19</sup>

As for petitioner's contention that the instant Petition should be granted for the reason that she has a meritorious case, suffice it to state that the Court adopts the appellate court's pronouncement on the matter. The CA denied petitioner's plea to be dropped as defendant in Civil Case No. 02-102639 because it found - by meticulous consideration of the extant evidence - that Genoveva was "the principal orchestrator" of the scheme to use spurious TCCs to pay Mannequin's 1995-1997 duties and taxes; that such a finding was based on positive testimony of a witness presented in court; that documentary evidence pointed to Genoveva's significant participation in Mannequin's affairs during the time material to the suit; and that all the other defendants to the case seemed to have absconded and suspiciously waived all their rights and properties in the country in favor of Genoveva, who was then dropped from the suit. To repeat the appellate court's pronouncement:

It goes without saying then that x x x Genoveva's exclusion would virtually render the entire proceedings a futile recourse as far as the petitioner is concerned. **Verily, even if petitioner Republic of the Philippines wins this case, the government will end up with a pyrrhic victory as it cannot recover even a single centavo from the other defendants. On the other hand, it would be the height of injustice, and surely unacceptable, that those who were responsible for this grand fraud and benefited therefrom would laugh their way to the bank and enjoy their loot with impunity.** It was, thus, essential for the public respondent to exercise extreme caution in dealing with x x x Genoveva's Motion to Exclude. In the end, though, the public respondent chose to mechanically and blindly adhere to the presumption of regularity of public documents without due regard and consideration to the palpable inconsistencies that those public documents, themselves, reveal. There was obviously a failure to exercise sound, judicial discretion on the part of the public respondent in this respect.<sup>20</sup> (Emphasis in the original)

Adopting the CA's finding that Genoveva appears to have been the principal figure in the illegal scheme, this Court cannot but reach the logical conclusion that she should not have been excluded from the case.

**WHEREFORE**, the Petition is **DENIED**. The July 29, 2013 Decision and February 5, 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 118442 are **AFFIRMED in toto**.



<sup>19</sup> *Marquez v. Secretary of Labor*, 253 Phil. 329, 336 (1989).

<sup>20</sup> *Rollo*, p. 52.

**SO ORDERED.**

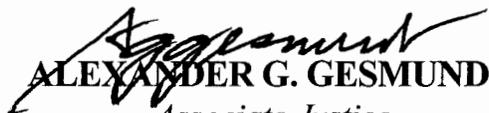
  
**MARIANO C. DEL CASTILLO**  
*Associate Justice*

WE CONCUR:

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*  
*Acting Chairperson*

  
**FRANCIS H. JARDELEZA**  
*Associate Justice*

  
**NOEL GIMENEZ TIJAM**  
*Associate Justice*

  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

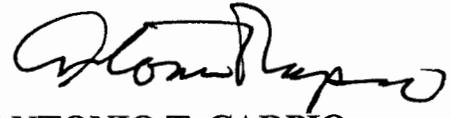
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*  
*Acting Chairperson*

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
*Acting Chief Justice*

